

**T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT**

Date:	26-Oct-07	APPL. S. N:	10728698
To Examiner:	PATEL, KANJIBNAI B.	Art Unit	2624
From	Logan, Rugenia PARALEGAL SPECIALIST	Return This Memo To: Case Drop-Off Location	JEF-2D68

**SUBJECT:** Decision on Terminal Disclaimer(T.D.) filed:

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any questions, please see me or the Special Program Examiner. THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED TO APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE. When your action is complete,

please initial, date and return this memo to me. THANK YOU.

The T.D. is PROPER and has been recorded (see 14.23).

The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see 14.24):

- The TD fee of   has not been submitted nor is there any authorization in the application file for the use of a deposit account
- The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see 14.26 & 14.26.01).
- The T.D. lacks the enforceable only during common ownership clause – needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see 14.27.01).
- The T.D. is directed to a particular claim(s), which is not acceptable since "the disclaimer must be for a terminal portion of the term of the entire patent to be granted" (MPEP 1490) (see 14.26 & 14.26.02).
- The person who signed the T.D.:
  - is not an attorney "of record" (see 14.29 and 14.29.01).
  - has failed to state his/her capacity to sign for the business entity (see 14.28).
  - is not recognized as an officer of the assignee (see 14.29 & possible 14.29.02).
- No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see 14.30).
- The T.D. is not signed (see 14.26 & 14.26.03).
- The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see 14.32).
- The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed is missing or incorrect (see 14.26, 14.27.02 or 14.26.05).
- The period disclaimed is incorrect or not specified (see 14.26, 14.27.02 or 14.26.03).
- Other:
- Suggestion to request refund (see 14.36). NOTE: If already authorized, credit refund to deposit account and do not check this item.

I have appropriately notified applicant(s) of the status of the Terminal Disclaimer filed in this case.

Ex.Initials: \_\_\_\_\_ Date: \_\_\_\_\_

Log Date:

<b>Application Number</b> 	<b>Application/Control No.</b> 10/728,698	<b>Applicant(s)/Patent under Reexamination</b> HAYS ET AL.
<b>Document Code - DISQ</b>		<b>Internal Document – DO NOT MAIL</b>

<b>TERMINAL DISCLAIMER</b>	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : 25 October 2007	<b>This patent is subject to a Terminal Disclaimer</b>	

**Approved/Disapproved by:**

Henry D. Jefferson

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 4062.01US04

Presley Hays et al.

Confirmation No.: 9981

Application No.: 10/728,698

Examiner: Kanjibhai Patel

Filed: December 5, 2003

Group Art Unit: 2624

For: AUTOMATED METHOD FOR IMAGE ANALYSIS OF RESIDUAL PROTEIN

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE  
PATENTING REJECTION OVER A PRIOR PATENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The owner, Carl Zeiss MicroImaging AIS, Inc., of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent Nos. 6,671,393 and 6,330,349. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

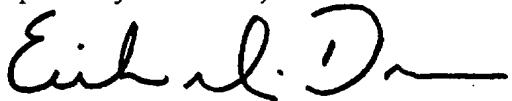
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patents, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a

maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed.

The Commissioner is hereby authorized charge to Deposit Account No. 16-0631 the \$130.00 filing fee of this submission or to grant any extension of time necessary for consideration of this paper, and/or to charge any fee or credit any overpayment to Deposit Account No. 16-0631.

The undersigned is an attorney or agent of record.

Respectfully submitted,



Erik M. Drange  
Registration No. 57,750

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*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*